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REMARKS

Claims 1-52 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 1-5, 7-15, 17-23, 25-36, 38-43, and 45-52 Under 35 U.S.C.**§102(b)**

Claims 1-5, 7-15, 17-23, 25-36, 38-43, and 45-52 stand rejected under 35 U.S.C. §102(b) as being anticipated by Srinivasan (U.S. 5,548,506). Withdrawal of this rejection is respectfully requested for at least the following reasons. Srinivasan does not describe, teach, or suggest each and every element set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently *describes each and every limitation* set forth in the patent claim. *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2D 1597 (Fed. Cir. 2002). "A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently *described* in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the Reply to the Final Office Action dated February 14, 2004, applicants' representative submitted that independent claims 1, 11, 30 and 32 recite initiating a schedule action, wherein a latency attribute of the action is compared with a latency threshold and data associated with the schedule is selectively stored based on the comparison. In the subject Advisory Action, the Examiner asserts "there is no recitation in the body of the claim that links the action and the latency attribute/latency threshold comparison" and "even if the preamble of the claim was treated as a limitation of the claim, the preamble does not sufficiently link the action and latency attribute." The Examiner further states "the latency attribute would just be associated with the schedule." Applicants' respectfully disagree.

In particular, independent claims 30 and 32 explicitly recite in the body of the claims that the latency attribute is associated with the action. For example, claim 30 recites "comparing

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a latency attribute associated with the action” and claim 32 recites “initiating an action having a latency attribute.” Independent claims 1 and 11 recite such limitations in the preamble. For example, claim 1 recites “an action ... having a latency attribute” and claim 11 recites “the action having a latency attribute.” Although, in general, the specification does not impart limitations on a claim, “if the claim preamble ... is ‘necessary to give life, meaning, and vitality’ to the claim, then the claim preamble should be construed as if in the balance of the claim.” See *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). Since the preambles of claims 1 and 11 are necessary to denote that the latency attribute is a latency attribute of the action, the preambles give life, meaning, and vitality to the claims and should be construed as if in the balance of the claims. However, even without such claim interpretation, the latency attribute as recited in claims 1 and 11 should be considered a latency attribute of the action, as explicitly recited in the body of claims 30 and 32, since “a claim term should be construed consistently with its appearance ... in other claims in the same patent.” (See *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851 (Fed. Cir. 2001)). Thus, the Examiner is incorrect in asserting the latency attribute recited in claims 1, 11, 30 and 32 does not sufficiently link the action and the latency attribute; the latency attribute is a latency attribute of the action.

In the subject Advisory Action, the Examiner contends Srinivasan discloses the action latency attribute as recited in the claimed invention. The Examiner states the task start and end times disclosed in Srinivasan are task time attributes and that such attributes are compared with a task threshold to determine the status of the task and if reminders should be sent. The Examiner further states “while the attribute indicates that a task is not completed, reminders are sent at predetermined times (thresholds) to both remind users of the existence of the task and gather information about the task.” The Examiner references column 3, lines 5-18, column 5, lines 45-58, column 6, lines 3-15, and column 7, lines 15-21 and lines 55-61 to support this contention. However, these sections of Srinivasan do not teach or suggest the claimed invention.

In particular, although task start and end times possibly could be considered attributes of a task, they are not latency attributes. Latency, as defined in the Merriam-Webster Online Dictionary, means “present and capable of becoming though not now ... active.” (See <http://www.merriam-webster.com/cgi-bin/dictionary?book=Dictionary&va=latent>). Thus, a latency attribute is associated with a dormant period that becomes active, not a start and end time

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that define a duration of an active period. In addition, although the Examiner relies on start and end times to teach the claimed invention, Srinivasan does not even disclose start and end times. Rather, Srinivasan, at column 3, lines 5-18, column 5, lines 45-51, and column 7, lines 15-21 and 55-61, discloses start and finish *dates*, such as *week-ends* and *holidays* (not times) and, at column 6, lines 3-15, does not even contemplate dates. Moreover, since these sections of Srinivasan do not disclose latency attributes, as recited in the subject claims, they cannot disclose a comparison between a latency attribute and a latency threshold.

Furthermore, after the Examiner incorrectly states that Srinivasan discloses task time attributes are compared to a task threshold, she states that reminders are sent at predetermined thresholds. It is unclear whether the Examiner associates such predetermined thresholds with the latency threshold recited in the subject claims. Regardless, the predetermined thresholds of Srinivasan are utilized as triggers to send reminders and not a latency threshold compared with a latency attribute.

In the Final Office Action (dated February 13, 2004), the Examiner asserted Srinivasan discloses initiating an action of a schedule and selectively storing data associated with the schedule based on a latency comparison as recited in the subject claims. As provided in the corresponding Reply, Srinivasan does not teach or suggest such aspects of the claimed invention, but instead discloses continuous auto monitoring of project tasks, including building a project task database, computing start and end dates, updating tasks, re-allocating task resources, generating reports, and sending reminders. In addition, it was further asserted that Srinivasan teaches recognizing a transaction boundary and selectively compensating a first action within a schedule based on the transaction boundary and a compensating parameter based on an abortion of a second action, as recited in claims 40 and 46, and determining action and transaction states and a relationship between the action and transaction based on a transaction boundary and compensating an operation when the states of the action and transaction are related and have aborted, as recited in independent claims 51 and 52. As discussed in detail in the corresponding Reply, Srinivasan does not teach or suggest such claim limitations.

In view of the foregoing, it is readily apparent that Srinivasan does not teach or suggest *each and every* element as set forth in claims 1-5, 7-15, 17-23, 25-36, 38-43 and 45-52, and, thus, does not anticipate the subject claims. Therefore, it is respectfully requested that this rejection be withdrawn.

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II. Rejection of Claims 6, 16, 24, 37, and 44 Under 35 U.S.C. §103(a)

Claims 6, 16, 24, 37, and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Srinivasan (U.S. 5,548,506). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Claims 6, 16, 24, 37, and 44 depend from independent claims 1, 11, 30 and 40, and by virtue of their dependency, these claims contain all the limitations of their respective base claims. Accordingly, this rejection should be withdrawn for at least the reasons discussed *supra*.

CONCLUSION

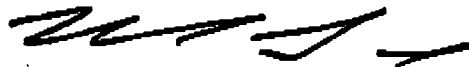
The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



Himanshu S. Amin
Reg. No. 40,894

AMIN & TUROCY, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731